

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO.4497 OF 2000

Amit K. Jasani .. Plaintiff
Versus
Varsha Bharat & Ors. .. Defendants.

Mr.S.P.Dalal i/b.Dalal & Co. for plaintiff.
None for defendants.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 6th AUGUST, 2007.

P.C.:

1. The affidavit proving service has already been filed. The Registry has duly checked the same and satisfied itself that the same proves service of writ of summons alongwith copies of the plaint on all defendants to the suit.

2. None appears for the defendants when the matter is called out.

3. Mr.Dalal, appearing for the plaintiff states that

the original documents alongwith list has been filed in the Court. He further states that affidavit in lieu of examination-in-chief has also been filed.

4. The suit is filed for declaration that 400 equity shares of the defendant No.4 Company lawfully belong to the plaintiff and the defendant Nos.1 to 3 have no right, title and interest therein. It has been pointed out that 400 equity shares of defendant No.4 Company being produced under the original bill dated 21st September, 1999, out of which, 100 equity shares were sold and 300 shares were lying with the plaintiff. The plaintiff could not send the said 300 shares for transfer before the Record Date. In the meanwhile, the defendant No.4 Company issued bonus on shares in the ratio 1:1. The defendant No.4 Company sent the bonus shares to the then registered holders of the said 300 shares that is defendant Nos.1 to 3. The original 300 shares subsequently got transferred in favour of plaintiff and then traded in physical form. The suit is filed to retrieve the shares. There are necessary restraint orders passed in this suit.

5. It is pointed out by the plaintiff in his deposition in chief that after restraint order was communicated to the defendant No.3, he sent 100 bonus

shares allotted by defendant No.4 to the plaintiff alongwith the Transfer Deed duly executed in favour of plaintiff. Thus, out of 300 shares, 200 shares are also remaining to be transferred to the plaintiff.

6. The suit claim is now restricted to 200 bonus shares, of which defendant Nos.1 and 2 are the present registered holders.

7. I am satisfied from the affidavit in lieu of examination in chief and perusal of the original documents that the suit claim is not barred by limitation so also this Court has necessary jurisdiction to entertain and try the present suit.

8. None has appeared for the defendants nor any written statement being filed controverting the pleas in the plaint. Decree has, therefore, been prayed for in terms of the discretion conferred upon this Court. Even in law, the plaintiff is obliged to prove his claim in the absence of pleadings. That liberty is made available to parties for cross examining the plaintiff on his case. However, none of the defendants have come forward to avail this opportunity as well.

9. In such circumstances, all allegations and averments in the plaint remain uncontroverted and undefended. There is no impediment in this case, exercising its discretion even otherwise. Having satisfied myself with the compliance of all legal provisions, I proceed to decree the suit as prayed for. Accordingly, the suit is decreed as prayed for except the bracketed portion. Advocates Costs to be computed as per rules.

10. All concerned to act upon an authenticated copy of this order.

(S.C.Dharmadhikari, J.)